

NEW HAMPSHIRE CODE OF ADMINISTRATIVE RULES

CHAPTER Pari 700 USE OF PROHIBITED SUBSTANCES AND PRACTICES IN HORSE RACING

PART Pari 701 PURPOSE AND SCOPE

Pari 701.01 Purpose. The purpose of this chapter is to establish a uniform classification guideline for the use of foreign substances in horse racing and to establish penalties for certain prohibited practices and the use of prohibited substances.

Source. #8066, eff 3-26-04; ss by #8551, eff 1-26-06

Pari 701.02 Scope. This chapter shall apply to all forms of horse racing regulated by the New Hampshire pari-mutuel commission under RSA 284.

Source. #8066, eff 3-26-04; ss by #8551, eff 1-26-06

PART Pari 702 DEFINITIONS

Pari 702.01 "Association of Racing Commissioners International, Inc. (ARCI)" means an organization with a membership composed of the racing commissioners of some states and neighboring territories and countries and an associate membership composed of representatives of the racing industry and its regulators in some foreign countries.

Source. #8066, eff 3-26-04; ss by #8551, eff 1-26-06

Pari 702.02 "ARCI Uniform Classification Guidelines for Foreign Substances and Recommended Penalties and Model Rule (ARCI Uniform Classification Guidelines)" means a set of guidelines prepared by ARCI as revised on April 15, 2004 relative to the definition and use of foreign substances and prohibited practices in horse racing, together with penalty provisions for the improper use of such substances or the use of such practices.

Source. #8066, eff 3-26-04; ss by #8551, eff 1-26-06

Pari 702.03 "Trainer of record" means a trainer of record, as defined in RSA 284: 38-a, of a horse.

Source. #8551, eff 1-26-06

PART Pari 703 PROHIBITED SUBSTANCES, PRACTICES AND CONCENTRATION LEVELS

Pari 703.01 ARCI Uniform Classification Guidelines.

(a) Except as otherwise provided in this part, the classification of foreign substances in horse racing, the description of prohibited practices and the penalties for the use of such foreign substances or prohibited practices shall be as set forth in the ARCI Uniform Classification Guidelines, including the preamble, notes regarding classification guidelines, classification criteria, classification definitions, drug classification scheme, alphabetized list or listing of drugs, drug listing by classification, non-classified substances and recommended penalties and model rule.

(b) Subject to the exceptions set forth in (f) and (g) below, no horse shall race if that horse:

- (1) Has within its bodily system any substance listed on the alphabetical list or listing by classification of the ARCI Uniform Classification Guidelines; or
- (2) Has been subjected to prohibited practices specified in the ARCI Uniform Classification Guidelines.

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(c) No person under the jurisdiction of the commission shall engage in those acts for which a penalty applies under (d) below.

(d) Except as provided in (f), (g) and (h) below, the penalty provisions of the ARCI Uniform Classification Guidelines shall apply to any person under the jurisdiction of the commission who:

- (1) Administers or applies to a horse that is entered to participate in a race, that is racing, or that has completed a race and is subject to having a blood, urine or other sample taken but not yet had that sample taken, any substance that is listed on the alphabetical list or listing by classification of the ARCI Uniform Classification Guidelines;
- (2) Acts contrary to the provisions of RSA 284: 38 as it applies to horses;
- (3) Adds to any blood, urine or other sample taken from a horse a substance listed in the ARCI Uniform Classification Guidelines, whether or not that substance is specifically classified therein;
- (4) Engages in prohibited practices specified by the ARCI Uniform Classification Guidelines;
- (5) Instructs that any of the foregoing actions be taken by another person;
- (6) Assists or aids in the taking of any of the foregoing actions; or
- (7) Otherwise causes a horse to race with a substance in its system that is listed in the alphabetical list or listing by classification of the ARCI Uniform Classification Guidelines, or otherwise causes the occurrence of a prohibited practice under the ARCI Uniform Classification Guidelines.

(e) A trainer of record, as insurer of a horse's condition under RSA 284:38-a, shall, in addition to the provisions of (c) above, be subject to the following provisions:

- (1) The penalty provisions of the ARCI Uniform Classification Guidelines shall apply to any trainer of record of a horse that races contrary to the provisions of (b) above; and
- (2) The penalty provisions of the ARCI Uniform Classification Guidelines shall apply to any trainer of record of a horse that is the subject of the acts referred to in (d) above.

(f) The prohibition on racing contained in (b) above shall not apply to the substance known as furosemide or to the substance known as phenylbutazone, the prohibitions on which shall be as set forth in Pari 703.05 below. The penalty provisions of (d) (1), (d) (5), (d) (6) and (d) (7) above, or (e) above as it relates to those provisions, shall not apply in the case of the use of those substances for their intended purposes except as provided in Pari 703.05 below.

(g) The prohibition on racing contained in (b) above and the penalty provisions of (d) and (e) above as they apply to the substances known as erythropoietin or darbepoietin shall be subject to the additional provisions of Pari 703.06 below.

(h) In cases other than those involving furosemide or phenylbutazone, which shall be handled according to Pari 703.05, the penalty provisions of (d) (1), (d) (5) and (d) (6) and (e) above shall not apply to the following persons in the following circumstances:

- (1) A veterinarian who, for generally accepted veterinary medical purposes, and acting at such time as is necessary for the health of the horse, administers or directs the administration of a substance classified as a class 2, 3, 4, or 5 drug under the ARCI Uniform Classification Guidelines;

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(2) A veterinary assistant who, operating under the direction of a veterinarian who is acting for generally accepted veterinary medical purposes and at such time as is necessary for the health of the horse, administers a substance specified under (h) (1) above; or

(3) A trainer of a horse which has been properly administered a class 2, 3, 4, or 5 substance by a veterinarian or veterinary assistant under the circumstances described in (h) (1) or (h) (2) above, if the horse does not race with a substance in its system contrary to (b) above.

(i) A horse administered a substance for which no penalty applies under (h) above shall, in accordance with Pari 703.01 (b), nonetheless not race.

Source. #8066, eff 3-26-04; ss by #8551, eff 1-26-06

Pari 703.02 Additional Prohibited Substances.

(a) Except as provided in (f) and (g) below, no horse shall race if that horse has within its bodily system any substance, whether or not specifically listed or identified in the alphabetical list or listing by classification of the ARCI Uniform Classification Guidelines, if that substance falls within the classification definitions or the drug classification scheme for a class 1, 2, 3, 4 or 5 substance as set forth in the ARCI Uniform Classification Guidelines.

(b) No person under the jurisdiction of the commission shall engage in those acts for which a penalty applies under (c) below.

(c) Except as otherwise provided in (f), (g) and (h) below, the penalties set forth in (e) below shall apply to any person under the jurisdiction of the commission who:

(1) Administers or applies to a horse that is entered to participate in a race, that is racing, or that has completed a race and is subject to having a blood, urine or other sample taken but not yet had that sample taken, any substance that falls within the classification definitions or the drug classification scheme for a class 1, 2, 3, 4 or 5 substance as set forth in the ARCI Uniform Classification Guidelines;

(2) Adds to any blood, urine or other sample taken from a horse a substance that falls within the classification definitions or the drug classification scheme for a class 1, 2, 3, 4 or 5 substance as set forth in the ARCI Uniform Classification Guidelines;

(3) Instructs that any of the foregoing actions be taken by another person;

(4) Assists or aids in the taking of any of the foregoing actions; or

(5) Otherwise causes a horse to race with a substance in its system that falls within the classification definitions or the drug classification scheme for a class 1, 2, 3, 4 or 5 substance as set forth in the ARCI Uniform Classification Guidelines.

(d) A trainer of record, as insurer of a horse's condition under RSA 284:38-a, shall, in addition to the provisions of (b) above, be subject to the following provisions:

(1) The penalty provisions set forth in (e) below shall apply to any trainer of record of a horse that races contrary to the provisions of (a) above; and

(2) The penalty provisions set forth in (e) below shall apply to any trainer of record of a horse that is the subject of the acts referred to in (c) above.

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(e) Subject to the exceptions of (f), (g) and (h) below, the penalty of the ARCI Uniform Classification Guidelines that is specified for violations relating to the particular type or class of substance at issue, be it a class 1, 2, 3, 4, or 5 substance, shall apply to violations of this section.

(f) The prohibition on racing contained in (a) above shall not apply to the substance known as furosemide or to the substance known as phenylbutazone, the prohibitions on which shall be as set forth in Pari 703.05 below. The penalty provisions of (c) (1), (c) (3), (c) (4) and (c) (5) above, or (d) above as it relates to those provisions, shall not apply in the case of the use of those substances for their intended purposes except as provided in Pari 703.05 below.

(g) The prohibition on racing contained in (a) above and the penalty provisions of (b) and (d) above as they apply to the substances known as erythropoietin or darbepoietin shall be subject to the additional provisions of Pari 703.06 below.

(h) The penalty provisions of (c) (1), (c) (3) and (c) (4) and (d) above shall not apply to the following persons in the following circumstances:

(1) A veterinarian who, for generally accepted veterinary medical purposes, and acting at such time as is necessary for the health of the horse, administers or directs the administration of a substance that falls within the classification definitions of a class 2, 3, 4, or 5 drug under the ARCI Uniform Classification Guidelines;

(2) A veterinary assistant who, operating under the direction of a veterinarian who is acting for generally accepted veterinary medical purposes and at such time as is necessary for the health of the horse, administers a substance specified under (h) (1) above; or

(3) A trainer of a horse which has been properly administered a substance that falls within the classification definitions of a class 2, 3, 4, or 5 drug under the ARCI Uniform Classification Guidelines by a veterinarian or veterinary assistant under the circumstances described in (h) (1) or (h)(2) above, if the horse does not race with a substance in its system contrary to (a) above.

(i) A horse administered a substance for which no penalty applies under (h) above shall, in accordance with Pari 703.02 (a), nonetheless not race.

Source. #8551, eff 1-26-06

Pari 703.03 Administration of Substances Via Tube, Syringe, or Other Artificial Means Prior to Race.

(a) No person under the jurisdiction of the commission shall engage in those acts for which a penalty applies under (c) (1) – (4) below.

(b) A trainer of record shall:

(1) In accordance with RSA 284: 38-a, be responsible for, and be the insurer of the condition of, any horse used for the purposes of racing which such trainer enters into a race; and

(2) In addition to the prohibitions of (a) above, be subject to the imposition of penalties in the circumstances set forth in (c) (5) below.

(c) The penalties set forth in (e) below shall apply to any person under the jurisdiction of the commission who:

(1) Introduces or administers any substance, via a tube, syringe, or other artificial means, directly into the stomach of a horse within 24 hours before a scheduled race, except as a veterinarian administering such substances for generally accepted veterinary medical purposes, and at such

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time as is necessary for the health of the horse, or as a person assisting such veterinarian in such circumstances;

(2) Instructs that any action prohibited under (c) (1) above be taken by another person;

(3) Assists or aids in the taking of any action that is prohibited by (c) (1) above;

(4) Otherwise causes a horse to race, in any type of race, after administration of a substance contrary to (c) (1) above; or

(5) Is the trainer of record of a horse that has been administered a substance contrary to (c) (1) above or which runs contrary to (d) below.

(d) No horse shall race if any substance has been introduced or administered, via tube, syringe or other artificial means directly into that horse's stomach within 24 hours before a race, regardless of whether such introduction or administration was conducted by a veterinarian for generally accepted veterinary medical purposes at such time as is necessary for the health of the horse, or by a person assisting such veterinarian in such circumstances.

(e) A violation of (a) above, or the existence of circumstances subjecting a trainer of record to penalties under (b) above shall, for the purposes of the imposition of penalties, be treated as if it constitutes an infraction of the ARCI Uniform Classification Guidelines for which the penalty provisions relative to a class 4 drug apply.

Source. #8551, eff 1-26-06

Pari 703.04 Racing With Elevated Total Carbon Dioxide Concentration.

(a) "Total carbon dioxide concentration" means the total concentration of carbon dioxide present in blood samples, or serum or plasma samples obtained from blood, collected from horses involved in races under the jurisdiction of the commission, sometimes known as the "TCO2 level."

(b) No horse shall race if that horse has a total carbon dioxide concentration of over 37 millimoles per liter.

(c) No person under the jurisdiction of the commission shall engage in those acts for which a penalty applies under (e) (1) – (4) below.

(d) A trainer of record shall:

(1) In accordance with RSA 284: 38-a, be responsible for, and be the insurer of the condition of, any horse used for the purposes of racing which such trainer enters into a race; and

(2) In addition to the prohibitions of (c) above, be subject to the imposition of penalties in the circumstances set forth in (e) (5) below.

(e) The penalties set forth in (f) below shall apply to any person under the jurisdiction of the commission who:

(1) Other than as a veterinarian administering such substance for generally accepted veterinary medical purposes, at such time as is necessary for the health of the horse, or as a person assisting such veterinarian in such circumstances, administers to any horse that is entered to participate in a race, that is racing, or that has completed a race and is subject to having a blood, urine or other sample taken but not yet had that sample taken, a substance that results in an elevation of the horse's total carbon dioxide concentration to a level of over 37 millimoles per liter;

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- (2) Instructs that any action be taken contrary to (e) (1) above;
- (3) Assists or aids in the taking of any action that is contrary to (e) (1) or (e) (2) above;
- (4) Otherwise causes a horse to race with a total carbon dioxide concentration contrary to (b) above; or
- (5) Is the trainer of record of any horse found to have been administered a substance contrary to (e) (1) above or which runs with a total carbon dioxide concentration exceeding the limit set forth in (b) above.

(f) A violation of (c) above, or the existence of circumstances subjecting a trainer of record to penalties under (d) above shall, for the purposes of the imposition of penalties, be treated as if it constitutes an infraction of the ARCI Uniform Classification Guidelines for which the penalty provisions relative to a class 4 drug apply.

Source. #8551, eff 1-26-06

Pari 703.05 Furosemide and Phenylbutazone.

(a) “Bleeder list” means the list compiled by the commission veterinarian of horses that demonstrate external evidence of pulmonary bleeding.

(b) “Phenylbutazone list” means the list or lists maintained by the commission’s representatives at the racing facility specifying those horses that are being administered phenylbutazone.

(c) No horse shall race if that horse has within its bodily system the substance known as furosemide unless that horse is on the bleeder list.

(d) No horse that has been identified on the bleeder list as a horse that will run with the substance known as furosemide in its bodily system shall race if that horse does not in fact have that substance within its system.

(e) No horse shall race if that horse has within its bodily system the substance known as phenylbutazone unless that horse is on the phenylbutazone list.

(f) No horse that has been identified on the phenylbutazone list as a horse that will run with the substance known as phenylbutazone in its bodily system shall race if that horse does not in fact have that substance within its system.

(g) No person under the jurisdiction of the commission shall engage in those acts for which a penalty applies under (i) (1) – (6) below.

(h) A trainer of record shall:

- (1) In accordance with RSA 284: 38-a, be responsible for, and be the insurer of the condition of, any horse used for the purposes of racing which such trainer enters into a race; and
- (2) In addition to the prohibitions of (g) above, be subject to the imposition of penalties in the circumstances set forth in (i) (7) below.

(i) The penalties set forth in (j) below shall apply to any person under the jurisdiction of the commission who:

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- (1) Other than as a veterinarian administering such substance for generally accepted veterinary medical purposes, at such time as is necessary for the health of the horse, or as a person assisting such veterinarian in such circumstances, administers to any horse that is entered to participate in a race or that is racing, the substances known as furosemide or phenylbutazone, if that horse is not on the applicable list under (c) or (e) above;
 - (2) Other than as a veterinarian administering such substance for generally accepted veterinary medical purposes, at such time as is necessary for the health of the horse, or as a person assisting such veterinarian in such circumstances, administers to any horse that has completed a race and is subject to having a blood, urine or other sample taken, but not yet had that sample taken, the substances known as furosemide or phenylbutazone;
 - (3) Being a trainer of record fails to administer, or cause to be administered, to any horse that is entered to participate in a race the substances known as furosemide or phenylbutazone if that horse is on the applicable list under (d) or (f) above;
 - (4) Instructs that any action be taken contrary to (i) (1), (i) (2) or (i) (3) above;
 - (5) Assists or aids in the taking of any action that is contrary to (i) (1), (i) (2) or (i) (3) above;
 - (6) Otherwise causes a horse to race contrary to (c), (d), (e) or (f) above or in contravention of the prohibited practices specified by the ARCI Uniform Classification Guidelines; or
 - (7) Is the trainer of record of a horse found to have been administered furosemide or phenylbutazone contrary to (i) (1) or (i) (2) above, or which races contrary to (c), (d), (e), (f) or (i) (6) above.
- (j) A violation of (g) above, or the existence of circumstances subjecting a trainer of record to penalties under (h) above, shall, for the purposes of the imposition of penalties, be treated as if it constitutes an infraction of the ARCI Uniform Classification Guidelines for which the penalty provisions relative to a class 4 drug apply.

Source. #8551, eff 1-26-06

Pari 703.06 Additional Rules Regarding Erythropoietin, Darbepoietin and Analogous Substances.

- (a) "Screening test" means a preliminary test designed to determine that a substance prohibited by these rules is not present.
- (b) No horse shall race if that horse has within its system:
- (1) The substances known as erythropoietin or darbepoietin, except to the extent that those substances occur naturally within the horse's bodily system; or
 - (2) Any substance analogous to those specified in (b) (1) above that causes an artificial increase in red blood cells in a horse.
- (c) In the case of a violation of these rules relative to erythropoietin or darbepoietin, the penalty provisions of Pari 703.01 or Pari 703.02 shall not apply if, and only if, the sole basis for imposing the penalty would be that a screening test of blood or urine fails to rule out the possibility that a horse may have run contrary to (b) above.
- (d) A horse that has been subject to a screening test of blood or urine that fails to rule out the presence of erythropoietin or darbepoietin or an analogous substance as described in (b) (2) above shall not race again until such time as a test conducted by the laboratory services of the New Hampshire pari-mutuel commission

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of blood samples, or serum or plasma samples obtained from blood, collected from the horse confirms the absence of those substances from the horse's system.

(e) Tests conducted under (d) above shall be at the expense of the owner or trainer of the horse tested.

(f) This section shall not apply to hemoglobin glutamers, such as the substances known as Oxyglobin or Hemopure, which shall be addressed as set forth in Pari 703.01 and Pari 703.02.

Source. #8551, eff 1-26-06

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APPENDIX

| RULE | STATUTE |
|---------------------------|--|
| | |
| Pari 701.01 – Pari 701.02 | RSA 284: 38 RSA 541-A: 16, I (b) |
| Pari 702.01 – Pari 702.02 | RSA 541-A: 7 |
| Pari 703.01 – Pari 703.05 | RSA 284: 19; RSA 284:38 RSA 284: 38-a |
| Pari 703.06 | RSA 284: 19; RSA 284:38 RSA 284: 38-a RSA 541-A: 16, I (b) |